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**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF UTAH**

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THE SCO GROUP, INC.

Plaintiff/Counterclaim-Defendant,

v.

INTERNATIONAL BUSINESS  
MACHINES CORPORATION,

Defendant/Counterclaim-Plaintiff.

**SCO'S MOTION FOR RELIEF  
FOR IBM'S SPOILIATION OF  
EVIDENCE**

Case No. 2:03CV0294DAK

Honorable Dale A. Kimball  
Magistrate Judge Brooke C. Wells

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Plaintiff/Counterclaim-Defendant, The SCO Group, Inc. ("SCO"), for the reasons set forth in the Memorandum in Support of Its Motion For Relief for IBM's Spoliation of Evidence moves this Court to (1) enter an order precluding IBM from contesting that it relied on AIX and Dynix/ptx source code in making contributions to Linux development, and (2) impose an

adverse-inference instruction against IBM, consistent with the common-sense and well-established principle that a party who has notice that evidence is relevant to litigation and who proceeds to destroy it is more likely to have been threatened by that evidence than a party in the same position who does not destroy the evidence.

DATED this 25th day of September, 2006.

HATCH, JAMES & DODGE, P.C.

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By: /s/Brent O. Hatch

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**CERTIFICATE OF SERVICE**

Plaintiff/Counterclaim-Defendant, The SCO Group, Inc., hereby certifies that a true and correct copy of the foregoing SCO's Motion For Relief for IBM's Spoliation of Evidence was served on Defendant/Counterclaim-Plaintiff International Business Machines Corporation on the 25th day of September, 2006 by the Court's CM/ECF system or by U.S. Mail to:

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